

**07 C 6225**

**JUDGE DER-YEGHIAYAN  
MAGISTRATE JUDGE MASON**

# **EXHIBIT A**

Int. Cls.: 17, 26 and 31

Prior U.S. Cls.: 1, 40, 42 and 50

**United States Patent and Trademark Office**

**Reg. No. 1,318,110**

**Registered Feb. 5, 1985**

**TRADEMARK**  
Principal Register



Vans Inc. (Illinois corporation)  
3730 W. 131st St.  
Alsip, Ill. 60658

CLASS 31 (U.S. Cl. 1).

First use Jul. 10, 1979; in commerce Jul. 10, 1979.

For: PLASTIC FLORAL FOAM, in CLASS 17  
(U.S. Cl. 1).

First use Jul. 10, 1979; in commerce Jul. 10, 1979.

For: ELASTIC RIBBONS AND SILK FLOW-  
ERS, in CLASS 26 (U.S. Cls. 40, 42 and 50).

First use Jul. 10, 1979; in commerce Jul. 10, 1979.

For: CUT FLOWERS AND CUT GREENS, in

Ser. No. 427,558, filed May 25, 1983.

JILL E. JOHNSON, Examining Attorney

## **EXHIBIT B**

Int. Cls.: 20, 26, 31 and 42

Prior U.S. Cls.: 1, 40, 50, 100 and 101

**United States Patent and Trademark Office** Reg. No. 1,747,124  
Registered Jan. 19, 1993

**TRADEMARK  
SERVICE MARK  
PRINCIPAL REGISTER**



VANS, INC. (ILLINOIS CORPORATION)  
3730 W. 131ST STREET  
ALSIP, IL 60658

FOR: FLORAL FOAM, FLOWER BASKETS  
AND DISPLAY STANDS FOR BOUQUETS, IN  
CLASS 20 (U.S. CL. 50).

FIRST USE 1-7-1984, FIRST USED IN AN-  
OTHER FORM ON FEBRUARY 17, 1979; IN  
COMMERCE 1-7-1984, FIRST USED IN COM-  
MERCE IN ANOTHER FORM ON FEBRUARY  
17, 1979.

FOR: ARTIFICIAL FLOWERS AND FABRIC  
RIBBONS FOR DECORATION, IN CLASS 26  
(U.S. CLS. 40 AND 50).

FIRST USE 1-7-1984, FIRST USED IN AN-  
OTHER FORM ON FEBRUARY 17, 1979; IN  
COMMERCE 1-7-1984, FIRST USED IN COM-  
MERCE IN ANOTHER FORM ON FEBRUARY  
17, 1979.

FOR: CUT FLOWERS AND GREENS, LIVE  
PLANTS AND FLOWERS AND FLOWER AR-  
RANGEMENTS, IN CLASS 31 (U.S. CL. 1).

FIRST USE 1-7-1984, FIRST USED IN AN-  
OTHER FORM ON FEBRUARY 17, 1979 ; IN  
COMMERCE 1-7-1984, FIRST USED IN COM-  
MERCE IN ANOTHER FORM ON FEBRUARY  
17, 1979.

FOR: DISTRIBUTORSHIP SERVICES TO  
FLORISTS OF FLOWERS AND FLORAL SUP-  
PLIES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 1-7-1984, FIRST USED IN AN-  
OTHER FORM ON FEBRUARY 17, 1979; IN  
COMMERCE 1-7-1984, FIRST USED IN COM-  
MERCE IN ANOTHER FORM ON FEBRUARY  
17, 1979.

OWNER OF U.S. REG. NO. 1,318,110.

SER. NO. 74-049,601, FILED 4-16-1990.

MIDGE BUTLER, EXAMINING ATTORNEY

# **EXHIBIT C**

Int. Cl.: 20

Prior U.S. Cl.: 50

**United States Patent and Trademark Office**

**Reg. No. 1,919,776**

Registered Sep. 19, 1995

**TRADEMARK  
PRINCIPAL REGISTER**



VANS, INC. (ILLINOIS CORPORATION)  
3730 W. 131ST STREET  
ALSIP, IL 60658

OWNER OF U.S. REG. NOS. 1,318,110 AND  
1,747,124.

FOR: FLORAL FOAM, IN CLASS 20 (U.S. CL.  
50).

SER. NO. 74-567,778, FILED 8-30-1994.

FIRST USE 7-15-1994; IN COMMERCE  
7-15-1994.

ANGELA LYKOS, EXAMINING ATTORNEY

# **EXHIBIT D**

**GREER, BURNS & CRAIN, LTD.**

*Attorneys at Law*

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SUITE 2500

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July 20, 2007

**VIA FACSIMILE AND FEDEX**

Mr. Mike Balsink  
President  
Cut Flower Wholesale, Inc.  
2122 Faulkner Road  
Atlanta, GA 30324

Re: VANS Trademark  
Our File No. 4460.78655

Dear Mr. Balsink:

Our firm represents Vans, Inc. ("Vans") in intellectual property matters. Vans is nationally known as the proprietor of the VANS and related trademarks for flowers, floral goods, and related goods and services. Vans owns multiple federal registrations for its VANS trademarks, including U.S. Registration Nos. 1,919,776; 1,747,124; 1,318,110 and 1,919,775. Our client enjoys substantial goodwill in the VANS trademark, and it is a valuable asset of our client.

It has come to our attention that Cut Flower Wholesale, Inc. ("Cut Flower") is making unauthorized and infringing use of our client's VANS trademark in connection with sales of flowers and related goods. In particular, Cut Flower is using domain names that include our client's VANS trademarks to promote sales of flowers. Cut Flower has registered and is using <www.vanswholesaleflorist.com> and <vanswholesale.com> to link

Mr. Mike Balsink

July 20, 2007  
Page 2

to your company's <www.cutflower.com> website where your company offers flowers and related goods for sale.

It is likely that the public, knowing of our client's VANS mark, will be deceived by your unauthorized use of the VANS trademark. Our client has been damaged by your actions and continues to suffer loss of valuable goodwill. Cut Flower's unauthorized use of the VANS trademark constitutes trademark infringement, unfair competition and other violations of federal and common laws. 15 U.S.C. §1125(d) (the Anticybersquatting Consumer Protection Act), for example, prohibits bad faith registration, use or trafficking in domain names that contain the trademarks of others. 15 U.S.C. §1117(d) provides statutory penalties of up to \$100,000 (per domain name) for violation of §1125(d), with willful violations effective to multiply the damages.

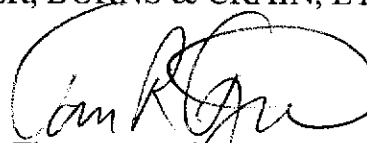
We demand that your company immediately cease and desist from all unauthorized use of the VANS trademark and colorable imitations thereof, including any use of the <www.vanswholesaleflorist.com>, <vanswholesale.com>, and any other domains you own or use that contain the VANS mark (collectively referred to as "infringing VANS domains"). Further, we demand that you contact us within 5 business days to arrange for transfer of all of the infringing VANS domains to our client.

Our client reserves the right to take additional actions now or at any time in the future as it deems necessary, appropriate and cost-effective. We look forward to your prompt attention to this serious matter.

Yours truly,

GREER, BURNS & CRAIN, LTD.

By



Thomas R. Fitzsimons

TRF:ml

cc: Alan Tanouye  
Kevin Guynn

# **EXHIBIT E**

**GREER, BURNS & CRAIN, LTD.**

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\*ADMITTED IN CALIFORNIA AND ILLINOIS

September 21, 2007

**VIA FACSIMILE AND EXPRESS**

Mr. Mike Balsink  
President  
Cut Flower Wholesale, Inc.  
2122 Faulkner Road  
Atlanta, GA 30324

Re: Infringement of VANS Trademark  
Our File No. 4460.78655

Dear Mr. Balsink:

This letter follows up our phone conference of September 11, 2007. During that conference you demanded \$2,000 in return for transfer of the <[www.vanswholesaleflorist.com](http://www.vanswholesaleflorist.com)> and <[www.vanswholesale.com](http://www.vanswholesale.com)> domains (collectively referred to herein as "the Vans domains") to our client (Vans, Inc. ("Vans")). Vans declines your offer. Further, we are most disappointed that you have chosen to attempt to profit from your bad faith registration and use of the Vans domains.

Because of your position, our client rescinds its previous offer to resolve this matter in return for transfer of the domains. Instead, Vans now demands, in addition to transfer of the domains, your payment of its legal costs incurred in addressing your trademark infringement. These costs presently total about \$3,000 and can be expected to increase should the dispute not be quickly resolved.

Mr. Mike Balsink

September 21, 2007

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During our phone conference, you indicated that you are not represented by counsel in this dispute. We urge you to obtain counsel. We trust that after you have done so you will better understand your liability and the potential consequences of your actions. In particular, you need to appreciate that when you registered the Vans domains and linked them to your website to promote competitive products you violated numerous U.S. laws, many of which call for statutory damages.

These include 15 U.S.C. §1125(d)(1)(A), which states in relevant portion: “(a) person shall be liable a civil action by the owner of a mark...(if) that person (i) has a bad faith intent to profit from the mark... and (ii) **registers ... or uses a domain name that (1) ... is identical or confusingly similar to that mark.**” 15 U.S.C. §1117(d) states: “... in a case involving violation of §1125(d)(1) a plaintiff may elect...(to recover) **an award of statutory damages in the amount of not less than \$1,000 and not more than \$100,000 per domain name** (registered or used in bad faith)...” 15 U.S.C. §1117(c) calls for **statutory damages of up to \$1 million** for use of a counterfeit mark (which can be based on use of a domain).

We attach for your further consideration a copy of *PetMed Express, Inc. v. MedPets.com*, 334 F.Supp. 1213 (S.D. Fla. 2004). This case illustrates application of the above statutes to a factual situation that is strikingly similar to the present dispute. In the *PetMed* case the defendant registered two domains that included variations of the registered PETMED trademark. After the defendant refused to transfer the domains, the trademark owner filed suit alleging violation of the above statutes.

The Court found that the defendant had committed trademark infringement by registering and using the two domains to link to its website where competitive products were promoted. The Court awarded the trademark owner statutory damages of \$400,000 per domain name based on violation of §1117(c), \$50,000 per domain name based on violation of §1125(d), and further awarded costs and legal fees. Total damages awarded were \$917,000.

Mr. Mike Balsink

September 21, 2007


Page 3

Should you not confirm within 10 business days compliance with the above demands, we will assume that you do not intend to comply. Our client reserves the right to take any and all actions it deems appropriate and necessary to protect its rights at any time.

Yours truly,

GREER, BURNS & CRAIN, LTD.

By

  
Thomas R. Fitzsimons

TRF:ml

cc: Alan Tanouye  
Kevin Guynn

# **EXHIBIT F**

**GREER, BURNS & CRAIN, LTD.**

*Attorneys at Law*

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October 1, 2007

**VIA FACSIMILE**

Mr. Mike Balsink  
President  
Cut Flower Wholesale, Inc.  
2122 Faulkner Road  
Atlanta, GA 30324

Re: Infringement of VANS Trademark  
Our File No. 4460.78655

Dear Mike:

This letter follows up our phone conference of September 24, 2007. During that conference you lowered your demand for transfer of the <[vanswholesaleflorist.com](http://vanswholesaleflorist.com)> and <[vanswholesale.com](http://vanswholesale.com)> domains (collectively referred to as "the Vans domains") to \$500. Vans declines your offer. Our client feels very strongly that any payment to your company is unacceptable given that this dispute arose solely through your illegal acts.

Our client has now incurred legal costs that total about \$3,500 in addressing your illegal actions. This amount does not take into account any lost sales our client has incurred due to the diversion of potential customers who were improperly directed to your web site through your use of the offending domains. In order to resolve this matter without further action, our client will forego its claim to damages but demands that you reimburse their legal costs in addition to transferring the domains. Short of your complete compliance,

Mr. Mike Balsink

October 1, 2007

Page 2

our client is not interested in any further negotiation, as that will only increase their costs. If we do not hear from you within 7 days, we will assume that you do not intend to comply.

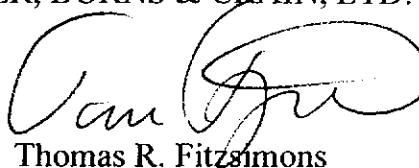
Keep in mind that if you do not comply and further actions become necessary, our client's legal costs will increase accordingly, and it will assert its claim to damages. Our client's settlement demands will correspondingly increase. For this reason you should carefully consider the consequences of further refusal to settle the dispute. Finally, we once again urge you to seek the advice of counsel before proceeding.

Our client reserves the right to take any and all actions it deems appropriate and necessary to protect its rights and assert its claims to damages at any time.

Yours truly,

GREER, BURNS & CRAIN, LTD.

By



Thomas R. Fitzsimons

TRF:ml

cc: Alan Tanouye  
Kevin Guynn